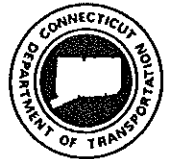




# STATE OF CONNECTICUT

## DEPARTMENT OF TRANSPORTATION

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Office of the  
Commissioner

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### Public Hearing – March 8, 2013 Transportation Committee

### Testimony Submitted by Commissioner Jim Redeker Department of Transportation

### **Raised S.B. 975 - An Act Concerning Revisions to the Transportation Statutes.**

The Department of Transportation (ConnDOT) would like to thank the Transportation Committee for raising S.B. 975, AAC Revisions to the Transportation Statutes. The bill represents the Department's ongoing efforts to streamline and create efficiencies within the Department that ultimately facilitate the implementation and management of the State's multimodal transportation program.

Of particular note, sections 11 and 23 of the bill contain minor revisions which together, make Connecticut eligible to access **new federal distracted driving prevention funds** which will allow ConnDOT to continue efforts to address distracted driving and mobile phone use by drivers. The National Highway Traffic Safety Administration (NHTSA) has federal funding for the prevention of distracted driving and motorist mobile phone use through enforcement and education. The program was created under Section 405E of the new Federal transportation law known as MAP-21. Federal 405(e) funds are similar to funding sources distributed through ConnDOT's Highway Safety Office such as the successful "Click it or Ticket" and "Drive Sober or Get Pulled Over" programs.

At least 50% of any grant funds awarded must be used to educate the public about the dangers of texting or using a cell phone while driving, for traffic signs that notify drivers about the distracted driving law of the State, or for law enforcement costs related to the enforcement of the distracted driving law. No more than 50 % of the grant funds awarded may be used for any eligible project or activity under 23 U.S.C. 40. (Note: Eligible activities under 23 U.S.C. 402 include Impaired Driving, Occupant Protection, Child Passenger Safety, Speed Enforcement and Motorcycle Safety).

Approximately \$17 million is available for the program for FFY 2013. The total national program for FFY 2013 is \$17,525,000 and it is estimated that Connecticut could receive about \$350,000- \$500,000 annually if the eligibility requirements are met.

To receive the funds, states must have certain state legislation in place. Currently, Connecticut is not compliant with the following legislative requirements:

- **Driver Licensing:** Connecticut legislation does not mandate that questions pertaining to distracted driving and motorist mobile phone use be required on driver licensing exams, (although it is currently being done in practice, this does not qualify).
- **In Motion:** Connecticut legislation pertaining to hand-held phone violation requires the vehicle to be in motion for a motorist to be in violation of state statute. 405E requirements state that

laws pertaining to mobile phone use restriction apply even when the vehicle is at rest (ex. stopped at a traffic light).

- **HAM radio exception:** 405E requirements include exceptions for emergency services and military personnel during emergency situations but no others. Connecticut currently has an exception to its hand-held phone ban for HAM radio operators.

Representatives from ConnDOT, the NHTSA Regional Office, Department of Motor Vehicles, Department of Emergency Services and Public Protection and the Office of the Chief State's Attorney met last month to draft legislation the address the aforementioned requirements. The language agreed-upon is contained in sections 11 and 23 of S.B. 975 and would make Connecticut eligible for the new federal distracted driving funds.

Below is a section by section summary of the other provisions in S.B. 975:

### **Section 1. Excess DOT Property Disposition**

The Department proposes changes to CGS 13a-80 regarding disposition of excess state property to further agency efficiency. The purpose of the changes is to: 1) clarify the statutory requirement for a public bid for properties that conform to zoning; 2) provide cost saving measures once statutory requirements are met; and 3) increase the threshold for requiring two appraisals for the release of state property.

Current language states "...the department shall obtain a second appraisal if such property is valued over one hundred thousand dollars and is not to be sold through public bid or auction." This would imply that the Department has the means to sell properties without holding a public bid. It is in the best interest of the state and the general public to have all properties that conform to zoning announced for public bid. ConnDOT's current policy reflects this notion and the modified language would ensure transparent transactions via public bids.

CGS 13a-80, as currently written, does not provide a mechanism for the commissioner to continue to market properties for sale when a public bid elicits no bids, other than to have another public bid. Increasing advertising costs, as well as indirect costs such as personnel resources, make selling state property solely through a public bid inefficient. One public bid would be required, as stipulated above. If no bids are received, then the commissioner may continue to market the property for sale and release the property without further public notice. This would save in advertising costs, allow the Department flexibility in developing a sale, and expedite a potential sale by interested buyers after the public bid has occurred.

CGS13a-80 also requires that a second appraisal be obtained for properties over \$100,000 and are not sold by public bid. This would occur for sole abutter sales and for sales to former residential property owners upon which a single-family dwelling was situated at the time it was obtained by the Department for highway purposes if the sale occurs within 25 years of the properties acquisition (13a-80(c)). Presumably, requiring two appraisals for properties valued above a \$100,000 was to ensure "valuable" properties were appraised appropriately. The \$100,000 threshold was established in 1986 with the addition of subsection (b) to the statute. Since the threshold has not been adjusted in 25 years, the Department is proposing an increase to \$250,000. This figure mirrors ConnDOT's threshold for obtaining two appraisals when acquiring property for transportation projects. The increase to \$250,000

will reduce contracting costs to the Department's contracted appraiser and reduce delays in releasing state property.

## **Section 2. Agreements with the State of Vermont**

Currently, CGS 13b-79u allows the Commissioner to enter into agreements with the commonwealth of Massachusetts or any entity on its behalf to facilitate operation and development of the New Haven-Hartford-Springfield rail line. The Department is proposing that the State of Vermont be added to this section of statute as they will be involved in the agreements that are entered into regarding or relating to cost allocation pursuant to the federal Passenger Rail Reinvestment Act (PRIIA).

## **Section 3. Administrative Delegation of Authority**

This section allows the Commissioner to delegate authority for certification of public records to Bureau Heads within ConnDOT and the authority to sign agreements, contracts and other legal and binding documents to appropriate agency staff.

Historically, ConnDOT has had several Deputy Commissioners appointed with oversight responsibility of major departmental bureaus. As such, delegation of authorities to those appointed Deputies was sufficient. Currently, the agency has one appointed Deputy Commissioner. ConnDOT's three operating bureaus and two administrative bureaus are administered by state employee managers as "bureau heads." This proposal would allow more flexibility and efficiency in carrying out the various administrative functions and responsibilities of the Department of Transportation.

## **Section 4. Establishment of a Film Permit System**

This section would allow ConnDOT to implement a simple permitting system to expeditiously and efficiently grant permission to film companies that seek to film on ConnDOT property or state highway right-of-way.

The State established a program pursuant to CGS 12-217jj, which seeks to encourage the production of digital media and motion pictures in the State of Connecticut in order to enhance the quality of life and economic vitality of Connecticut by supporting the film and media industry and related job creation in the State of Connecticut. In order to expeditiously and efficiently grant permission to film companies that seek to film on ConnDOT property or state highway right-of-way, the ConnDOT seeks to implement a permitting system for filming, rather than rely on existing statutes that historically are used to convey an interest in real property, requiring additional approvals, from entities such as the State Properties Review Board (SPRB).

Filming companies require flexible scheduling and prompt approval of their requests, which is not often possible with the current agreement process and review (e.g., SPRB) process. A permitting system, as opposed to a traditional agreement process, will be more efficient and attract the film industry to the state and improve the Department's ability to deliver services considerably. State resources will be saved as agreement preparation and processing will be eliminated.

All protections to the State will be built into the permit, with insurance requirements being set on a case-by-case basis, by ConnDOT in consultation with the State's Director of Insurance and Risk Management (DAS-Insurance and Risk Management Board), based upon the complexity of the filming request.

The Department has recently learned that the Department of Administrative Services (DAS) also receives requests to film on their property and would like to be added to this provision to cover filming on land controlled by DAS. The Department would like to work with the Committee on language that includes a provision to assist DAS.

#### **Section 5. Public Utility Easements for ConnDOT Facilities**

This section would allow the Department to grant easements to public service companies in connection with bringing utility service to a ConnDOT facility, similar to the authority in CGS 4b-22a for the Department of Construction Services (formerly the Department of Public Works) to grant easements to public service companies.

When the Department renovates existing or constructs new facilities to support its operations, including, but not limited to, its highway maintenance operations, in many instances the most efficient and economical means of providing utility service to the facility is to connect to a public utility. While installations in the State highway right-of-way are addressed in CGS 13a-126, installations in or on ConnDOT property are not.

In some instances of bringing new utility service to ConnDOT property, the public utility company has to install facilities such as pipes, valves, meters, regulators, compressors, fixtures, metering devices and any other apparatus and appurtenances needed to provide utility service, in or on State property, and in instances when substantial installation is required, will not do so without obtaining a permanent property right for its facilities to be placed on and remain on State property. The Department is seeking the equivalent authority that the Department of Construction Services has, pursuant to CGS 4b-22a, to grant easements.

#### **Section 6. Overhead Clearance for Fairfield Metro Rail Station Bridge**

Section 6 of the bill allows for an access road with a 4 lane vehicular bridge over Metro-North Railroad (MNR) that provides an overhead clearance that is less than the required minimum 22'6" by four inches. The new bridge, owned by the town of Fairfield, is 1300 feet west of Black Rock Turnpike and provides an overhead clearance of 22'2". (Note: CGS 13b-251 (2) requires overhead clearance for any structure crossing any railroad tracks on which trains are operated that are attached to or powered by means of overhead electrical wires to be 22'- 6").

As part of the development of the new Fairfield Metro Railroad station, a new access road, with a four lane vehicle bridge over MNR, 1300 feet west of Black Rock Turnpike was necessary. The design of this bridge was constrained by a number of factors that included: a jacked drainage system under the tracks east of the bridge; geometry of the access road to the station parking and limited distances to overhead Metro-North feeder wires.

Please note that the Fairfield Metro rail station is open and operational and the bridge is constructed.

#### **Section 7. Marine Pilot Self- Certification**

This provision allows licensed Connecticut marine pilots to self-certify their vessels in lieu of a state regulated program. This proposal has been vetted through the Connecticut Pilot Commission.

Currently, CGS 15-15e requires pilot boat operators to obtain a certificate of compliance from ConnDOT in accordance with regulations adopted by the Department. To date, the regulations have not been promulgated and the Department does not have staff to inspect/certify vessels of any type. To assure

compliance and create efficiencies, ConnDOT proposes pilot boat operators simply produce a certificate of insurance obtained through the current process of obtaining insurance policies. At present, pilot boat operators are required to obtain surveys conducted by qualified marine surveyors as part of their respective insurance policies. Inspections by qualified marine surveyors will insure that boats being operated are safe and seaworthy. Self-certification of the pilot boats will provide the desired level of safety and protection of the marine pilots without overburdening the pilot boat operators with unnecessary governmental regulations and processes.

#### **Sections 8 and 9. Restricted Use of Dedicated Roadways for Bus Rapid Transit**

These sections make minor changes to facilitate the safe operation and implementation of bus rapid transit on dedicated roadways. The Department proposes to (1) amend the definition of "highway" to explicitly include roadways dedicated for bus rapid transit (BRT); and (2) restrict access to such roadways.

The revision to the definition of "highway" is necessary so ConnDOT can appropriately restrict use of the dedicated roadway for BRT, known as CTfastrak in order to provide public transit services in the region. This dedicated roadway will not be open to travel by the public by vehicle, by bicycle or on foot, and the Commissioner of Transportation must have the authority to restrict and permit persons as needed on the BRT roadway.

Access to roadways dedicated to bus rapid transit must be restricted to the vehicles used in providing the public transit service operated by the Department and its authorized transit operators, ConnDOT maintenance vehicles and its authorized maintenance contractors, authorized emergency vehicles, and others specifically authorized in writing by the Commissioner of Transportation.

CTfastrak is part of the State highway system and assigned a State highway system number. This proposal makes it clear within the statutes that address use of the highways by motor vehicles that the CTfastrak BRT roadway, and any other BRT roadway that Connecticut may construct in the future, are included within the definition of "highway".

#### **Section 10. Safety Belts**

This section requires all occupants in a motor vehicle to wear a safety belt. Current statute only requires the driver and front seat passengers to be restrained.

As reported by National Highway Transportation Safety Administration (NHTSA) Report Number DOT HS 808 945 – "In all crashes, back- seat lap/shoulder belts are 44% effective in reducing fatalities when compared to unrestrained back seat occupants".

Safety belts save lives not only for front seat passengers but for back seat passengers too.

#### **Sections 12-14. Outdoor Advertising**

ConnDOT and the Administration have met with Outdoor Advertising representatives on the provisions in sections 12-14 of the bill, as well as issues surrounding implementation of former Governor Rell's Executive Order #18 banning outdoor advertising structures on state property.

We have agreed to continue discussions on Section 12 of the bill which increase permit fees and require a fee for the transfer of permits between parties proposed to cover the Department's costs for administering the program.

We have agreed to move forward with Section 14 of the bill which increases the time for a static display to eight seconds (from six seconds) for electronic or mechanical signs - consistent with a recent suggestion by the Federal Highway Administration (FHWA).

After discussion with the industry, ConnDOT would like to withdraw the provision in Section 13 which would have required permit numbers on structures be no less than twelve inches in height. The industry and the Department will be working on a GPS-oriented system that will assist ConnDOT in the administration of the outdoor advertising program.

#### **Sections 15 and 16. Connecticut Airport Authority (CAA) Revisions**

The CAA has proposed legislation would provide the new authority with the same exemption from certain occupational licensing requirements currently in place for state agencies. Section 20-340 as currently written provides a long list of persons exempt from licensing, registration, and other requirements imposed upon electricians, plumbers, solar installers, heating installers, piping and cooling contractors and journeymen, elevator and fire protection sprinkler craftsmen, irrigation contractors and journeymen, and gas hearth installer contractors and journeymen. This issue came to our attention because ConnDOT employees currently perform work at the airports and since they are state employees they do not need to be licensed to perform such work. When these same employees are transferred into the employ of the CAA, they will no longer be "state employees" and would most likely require licensure to perform the work they have been doing for years. The proposed amendment maintains the status quo by simply adding employees of the CAA to the list of exempt persons.

The Authority is also proposing legislation which would give the CAA the same flexibility to control construction at the airports as currently held by the ConnDOT. Because the airports are currently under state control, local municipal building code and fire code inspection and permitting do not apply to construction at the airports. The relevant statutes give ConnDOT the authority to perform its own inspections by its own State licensed inspector. The Department then certifies such compliance in its application to the State Building Inspector, and the Inspector is authorized to act on the Department's certification. The proposal includes the CAA in the group of state entities empowered to certify their own compliance with these codes and regulations by using its own State licensed building inspector. The CAA expects to utilize the ConnDOT inspector until it employs its own inspector.

#### **Sections 17 – 20. Master Transportation Plan Repeal**

These sections repeal the requirement for the Department to publish and submit a Master Transportation Plan (MTP) to the Governor by January 31 in every odd-numbered year. The Department proposes this change to eliminate a duplication of efforts.

The MTP is required by state statute, prepared by ConnDOT every 2 years and dates backs to 1969 legislation. It was originally intended as a comprehensive planning document with a 10-year planning horizon; its role has been largely duplicated or replaced by the other three documents. Most notably, in 1991, the federal government enacted legislation requiring every state to prepare a Long-Range Transportation Plan with a 20-year planning horizon. This federally mandated plan now largely replaces the long-range comprehensive planning function of the MTP. The Five-Year Capital Plan, which was first published in 2010, now provides detailed project-specific costs and schedule information that the MTP used to provide.

Federal laws and regulations also require state transportation agencies to prepare and update every two years, a Statewide Transportation Improvement Program (STIP) as a condition for obtaining federal authorization to spend federal transportation funds on projects. The STIP is a four-year financial document which lists all projects in the state that are expected to be funded in those four years with federal funds. It also lists all regionally significant projects, regardless of funding source, which will be undertaken within the state that could affect air quality. It is the means by which the goals and objectives identified in the state and regional long-range transportation plans are implemented. In light of the economic uncertainties at the state and federal levels, it is not feasible to indicate project priorities by need and fiscal capability beyond a four-year period.

It is proposed that that CGS 13b-15, which requires the Department to develop a master transportation plan, be eliminated because the information presented in this plan is included in either the federally mandated, statewide long-range transportation plan or could be included in the Department's annual Capital Plan. The Capital Plan could be expanded to include project data for all the modes of transportation for which the Department is responsible.

#### **Section 24. Duplicative Land Disposition Processes**

ConnDOT proposes to rescind Section 13a-85c, which governs the disposition of land acquired for the Route 6 Expressway by the Department, as its language is redundant to Section 13a-80, which governs the disposition of all other excess property by ConnDOT, and includes additional language that makes the disposition of the property more restrictive.

The distinction in the language of the statutes occurs with two additional requirements under 13a-85c.

The first distinction is the establishment of a sales price based on the average of two appraisals. Section 13a-80 requires only that the Department obtain an appraisal for all releases of DOT land. The subsequent sales price (in many instances negotiated) and transaction is approved by the Office of Policy and Management, the State Properties Review Board, and the Office of the Attorney General. Section 13a-85c establishes a sales price by averaging two appraisals, thereby removing any room for negotiations for a transaction. This restrictive language could prevent ConnDOT from generating additional revenue and preclude developers from an opportunity to spur future economic growth.

The second distinction is a requirement to obtain approval from the Federal Highway Administration (FHWA) prior to disposition. This is no longer necessary as FHWA has asked for a return of all federal expenditures associated with the Route 6 Expressway project. The Department returned more than \$11 Million last year so the FHWA no longer has an interest in the future use of the land acquired for the Expressway.

**Further background:** Section 13a-85c was established as a result of the passing of Special Act 07-11, Section 31 which attempted to make a distinction in how to dispose of excess DOT properties that were acquired for the Route 6 Expressway from all other excess properties of the Department, which are sold via Section 13a-80. At the time of inception, the statute mirrored Section 13a-80 with the exception that the Department was (1) required to hold a public hearing, (2) obtain approval from FHWA, and (3) establish a sales price of the average of two appraisals. Approval from FHWA was required since federal money was used to purchase the Expressway corridor.

The approval of Special Act 08-8 Section 2 removed the public hearing requirement. However, the language was not modified in Section 13a-85c of the statutes.

The requirement for the approval from FHWA is now a moot point as the Department has reimbursed the FHWA for all federal expenditures associated with the Route 6 Expressway. Therefore, FHWA has no interest in the future use of the land.

Section 13a-85c declares the sales price to be average of two appraisals. This language is more restrictive than 13a-80 and is contrary to Department policy of releasing land via a public bid. Having a pre-determined sales price raises questions as to how to fairly release a property when more than one person is interested in the purchase. The language also precludes ConnDOT from ever entertaining bids that would be above the appraised value.

The removal of the FHWA approval requirement and the elimination of the restrictive appraisal language will leave you with exact language of Section 13a-80. Therefore, it is recommended that Section 13a-85c be repealed in its entirety.

For further information or questions, please contact Pam Sucato, Legislative Program Manager for the Department of Transportation at (860) 594-3013 or [pamela.sucato@ct.gov](mailto:pamela.sucato@ct.gov).